

ENFORCEMENT ACTIONS

PIH-REAC's Quality Assurance Subsystem (QASS) is tasked with assuring that financial data received under the UFRS and PHAS are free of material misstatements. To this end, QASS identifies high-risk audit firms, performs Quality Assurance Reviews (QARs) to determine compliance with professional auditing and accounting standards and HUD requirements, and makes referrals to oversight bodies as appropriate.

Based on QARs performed in Fiscal Years 2001 and 2002, QASS decided to refer for potential action 12 public accounting firms who performed audits of entities covered by UFRS and PHAS. As of September 30, 2002, 39 referrals have been made to State Boards of Accountancy (32 of those referrals are currently being investigated by state boards), three referrals to the AICPA, and six referrals to the Departmental Enforcement Center. State Boards of Accountancy have jurisdiction over Certified Public Accountants (CPAs) who practice in their state. The AICPA's Professional Ethics Divisions investigates complaints against CPAs who are members of that organization. The Departmental Enforcement Center is the HUD office responsible for initiating suspension and department actions.

The Department is aggressively pursuing action against auditors who have egregiously violated professional standards and HUD requirements. To date – based on referrals made to oversight bodies as a result of QARs performed by QASS – the following enforcement actions have been taken or are proposed against IPAs:

Lloyd Harrison, CPA

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Mr. Lloyd Harrison, CPA based upon five financial statement audits he conducted of the Village of Cuba, the Eastern Plains Council of Governments, the Village of Santa Clara, the Village of Wagon Mound, and the Village of Pecos, all of which included Public Housing Agencies (PHAs). The SAO specifically complained that the five audits of the aforementioned PHAs for fiscal year ending June 30, 2000, included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Mr. Harrison's audits were not in compliance with eight of the ten generally accepted auditing standards.

Mr. Harrison waived his rights to a hearing under the Licensing Act, 61-1-1 et seq. N.M.S.A. These rights included the right to a Notice of Contemplated Action; the right to conduct discovery of all witnesses and evidence to be used against him; the right to a hearing before the Board; the right to cross-examine all witnesses and evidence; and the right to appeal any Board decision.

In waiving his rights, Mr. Harrison neither admitted nor denied the allegations. He agreed to limit his practice of public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

If at any time Mr. Harrison wishes to remove his agreed upon limitation, he is required to notify the Board of his intent to offer such services and to complete 24 hours of continuing education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Mr. Harrison further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Winter/Spring 2002)

John J. Schonberger, Jr., CPA

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Mr. John J. Schonberger, Jr., CPA based upon his audits of the financial statements of the Public Housing Authorities for the Village of Cimarron, the Town of Springer, and the Town of Vaughn for the fiscal year ending June 30, 2000. The SAO specifically complained that the audits of the three aforementioned PHAs included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Mr. Schonberger's audits were not in compliance with nine of the ten generally accepted auditing standards.

Mr. Schonberger waived his rights to a hearing under the Licensing Act. In waiving his rights, Mr. Schonberger neither admitted nor denied the complaint allegations. He agreed to complete three SAO-approved fiscal year 2001 audits of the PHAs for the Village of Cimarron, the Town of Springer, and the Town of Vaughn. Following completion of the three aforementioned fiscal year 2001 PHA audits, he agreed to limit his practice of public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

To remove his agreed upon limitation, Mr. Schonberger is required to notify the Board of his intent to offer such services and to complete 24 hours of continuing education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Mr. Schonberger further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Winter/Spring 2002)

Sandra Rush, CPA

The State of New Mexico, Office of the State Auditor (SAO) initiated a complaint against Ms. Sandra Rush, CPA based upon her audit of the financial statements of the Public Housing Authority for the town of Mountainair, for the fiscal year ending June 30, 2000. The SAO specifically complained that the audit of the aforementioned PHA for the fiscal year ending June 30, 2000, included numerous instances of substandard work based upon working paper quality assurance reviews jointly performed by the SAO and QASS. It was alleged that Ms. Rush's audit was not in compliance with seven of the ten generally accepted auditing standards.

Mr. Rush waived here rights to a hearing under the Licensing Act. In waiving here rights, Ms. Rush neither admitted nor denied the complaint allegations. She agreed to limit her practice of public accountancy by neither performing nor planning to perform any governmental audit or attest services that would include PHAs.

If at any time Ms. Rush wishes to remove her agreed upon limitation to neither perform nor plan to perform any governmental audit or attest services that would include PHAs, she is required to notify the Board of her intent to offer such services and to complete 24 hours of continuing

education in the area of HUD and PHA prior to offering the aforementioned governmental audit or attest services.

Ms. Rush further agreed that failure to fulfill agreement requirements will be considered a violation of the Code of Professional Conduct, Rule 407-Acts Discreditable, and may serve as a basis for Board disciplinary action. (Source: New Mexico State Public Accountancy Board newsletter – Summer/Fall 2002)

Malcolm Johnson & Company, P.A.

Malcolm P. Johnson

James K. Barker, Jr.

On October 9, 2002, HUD proposed the debarment of Malcolm Johnson & Company, P.A. for five years, which would prohibit this DeBary, Fla. firm from doing new business with the federal government during this period.

HUD has also proposed the debarment of company president, Malcolm P. Johnson and vice president Jim Barker Jr., both based in DeBary. These proposed debarments are based on the certified public accounting firm's failure to follow professional auditing standards in the performance of audits for housing authorities in the following cities: Gainesville and Miami Beach, FL; New Orleans, LA; Spartanburg, SC; Royston and Atlanta, GA; Cincinnati, OH; and Washington, D.C.

The Single Audit Act Amendments of 1996 requires that housing authorities receiving more than \$300,000 in federal funds to conduct annual audits. These audits must be performed in accordance with generally accepted government auditing standards (GAGAS) and generally accepted auditing standards (GAAS). The Office of Management and Budget has implemented the Single Audit Act Amendments through OMB Circular A-133, which contains additional requirements for these annual audits.

HUD alleges that Malcolm Johnson & Co. did not follow these standards and audit requirements for these audits. HUD alleges that the firm failed to properly plan and/or conduct these audits.

This firm and these individuals have 30 days in which to oppose their debarment.

Mike Estes, P.C.

Mike Estes

On December 6, 2002, HUD announced that it has proposed a five-year debarment of the certified public accounting firm Mike Estes, P.C., of Fort Worth, Texas. If finalized, the measure would prohibit the firm from doing new business with the federal government or federal funding recipients, including public housing authorities.

HUD has also proposed the debarment of company president, Mike Estes, for the same period. The proposed debarments are based on the firm's failure to follow professional auditing standards in the performance of audits for housing authorities in the following cities: St. Charles Parish, City of Crowley, City of Gibsland, Town of Ferriday, and City of Houma, La. and Henderson and Monahans, Tex.

The Single Audit Act of 1984 and the Single Audit Act Amendments of 1996 requires that housing authorities receiving more than \$300,000 in federal funds conduct annual audits. These

audits must be performed in accordance with generally accepted government auditing standards (GAGAS) and generally accepted auditing standards (GAAS). The Office of Management and Budget has implemented the Single Audit Act Amendments through OMB Circular A-133, which contains additional requirements for the annual audits.

HUD alleges that Mike Estes, P.C. did not follow these standards and audit requirements and, that the firm failed to properly plan and/or conduct these audits. This firm and its president have 30 days to oppose this proposed debarment.